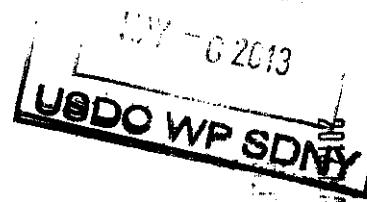


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
ANN MOLINA,

Plaintiff,

COMPLAINT

vs.

COUNTY OF ORANGE,

Defendant.
-----X

13 CV 3018

JUDGE RAMOS

This is an action for declaratory and injunctive relief against the County of Orange arising from its failure to adopt new and legal legislative districts for the conduct of the November 2013 county legislative election.

I. PARTIES

1. Plaintiff, ANN MOLINA, is a voter who resides in current legislative district 14 of the Orange County Legislature, within this judicial district.

2. Defendant, County of Orange, is a municipal corporation organized pursuant to the laws of the State of New York.

II. JURISDICTION

3. As plaintiff alleges that the omission of the defendant, as more fully set forth below, violates his right to equal protection under the law, this Honorable

Court has jurisdiction over this action pursuant to 28 U.S.C. secs. 1331, 1343 (3) and (4) and 42 U.S.C. secs. 1983 and 1988.

III. STATEMENT OF FACTS

4. In 2005, the County of Orange implemented new legislative districts consistent with the principle of one person/one vote.

5. General elections based upon these legislative districts were held in 2005 and 2009.

6. In or about 2011, the County of Orange received census data from the 2010 census enumeration.

7. That census data demonstrated [when broken down by the current twenty one districts in Exhibit 1 to the Sussman Affirmation] that many of the districts drawn in 2005 substantially deviated from the median population of 17,753 for each of the twenty one districts, as derived from the 2010 census results.

8. District 14, in which plaintiff resides, deviates by more than 20% from the median population for each legislative district.

9. Plaintiff is one of 21,629 residents of said district and her vote is minimized and diluted when compared with residents of district 13, for example, which has a total of 15,675 residents.

10. According to the Orange County Charter, Article II, sec. 2.08, upon the publication of each federal decennial census, the County legislature shall forthwith begin the process of reapportioning itself.

11. The Charter requires the County legislature to hold at least one public hearing on any proposed plan or reapportionment before its adoption and then affords the County Executive thirty days to veto or approve it.

12. Despite the knowledge of the county legislature and the county executive that the current county legislative districts must be re-drawn to comply with the requirements of one person/one vote, to date, defendant's legislature has failed to pass a redistricting map which complies with that standard.

13. Instead, on April 16, 2013, the legislature failed to adopt a new county legislative districting map by a vote of 10 to 10.

14. Thereafter, at a public meeting held on April 23, 2013, the Rules Committee of the County Legislature refused to entertain another redistricting map proposed by the minority leader of the legislature, the Honorable Jeffrey Berkman.

15. Instead, the county legislature and the county have resolved to hold the November 2013 elections based on the legislative districts drawn in 2005, which show substantial deviations from the median population, ranging from -14.39% to 29.78%. See, Exhibit 1 to Sussman Affidavit.

16. Before failing to adopt a new legislative map, the full county legislature was apprised repeatedly of the need to do so to comply with the principles of one person/one vote and fair minority representation as set forth in the Voting Rights Act and the case law interpreting it.

17. At the Rules Committee meeting on April 23, 2013, several legislators stated that they would prefer to leave the drawing of a proper map to the courts and were not interested in trying to develop and adopt a constitutional redistricting map.

18. As currently scheduled, candidates for the 2013 legislative elections may begin circulating nominating petitions on June 4, 2013.

19. Primaries, if any, for the twenty one [21] legislative seats will be held in September 2013.

20. The general election is scheduled for November 5, 2013.

21. Absent intervention by this Honorable Court, the County of Orange will be permitted to use outdated and unconstitutional district lines in the conduct of the 2013 election.

22. Defendant's county legislature has had ample time to draw a proper map to govern the 2013 legislative elections.

23. Failure to enjoin the currently scheduled election until a new and proper map is drawn would irreparably violate the equal protection rights of the plaintiff and all others similarly situated, i.e., residents of current legislative districts 1, 11, 14 and 21, numbering some 80,000 residents of the County of Orange.

IV. CAUSE OF ACTION

24. Plaintiff incorporates paras. 1-22 as if fully set forth herein.

25. The defendant county's failure to adopt a legislative map which reflects principles of one person/one vote violates the equal protection rights as guaranteed by the Fourteenth Amendment of the plaintiff, as made enforceable by 42 U.S.C. section 1983.

V. PRAYER FOR RELIEF

Plaintiff prays that this Honorable Court:

- a) declare unconstitutional the conduct of the November 2013 general elections and/or any primary election based on the extant legislative districts;
- b) temporarily, preliminarily and permanently enjoin the conduct of any election, whether primary or general, on the extant legislative lines;
- c) appoint, at defendant's expense, a special master to draw new legislative districts to govern the conduct of the 2013 legislative elections and those to be held

before a new map is drawn consistent with the 2020 census enumeration, which new map shall comply the principles of the Fourteenth Amendment [one person/one vote] and the Voting Rights Act of 1965;

d) establish new dates for the circulation of candidate petitions and the conduct of any primaries to be held before the November 2013 general election;

e) enter any other order which the interests of justice and/or equity require and

f) award to plaintiff's counsel reasonable attorneys fees and litigation costs pursuant to 42 U.S.C. section 1988

Respectfully submitted,


MICHAEL H. SUSSMAN [3497]

SUSSMAN & WATKINS
PO BOX 1005
GOSHEN, NEW YORK 10924
(845)-294-3991

Counsel for Plaintiff